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09/852,249	05/09/2001	Takeshi Douzono	MTS-3256US	4059

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EXAMINER

BARQADLE, YASIN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/852,249

Applicant(s)

DOUZONO, TAKESHI

Examiner

Yasin M Barqadle

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 3-7 and 10-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Response to Amendment

1. The amendment filed on December 27 2004 has been fully considered but are not deemed to be persuasive.

- Claims 1-2 and 8-9 are presented for examination
- Claims 3-7 and 10-17 have been canceled.
- Claims 1-2 and 8-9 are currently amended.

### Response to Arguments

Applicant argues that Hunter "neither discloses nor suggests storing acquisition information on a recording device." Examiner contends that Hunter teaches customer music preferences are store in a limited space on customer's hard drive. The user station may store the content on a suitable intermediate storage medium such as a disk drive The customer may "preview" the stored music for free and thereafter decide whether to purchase a permanent copy (col. 3, line 43-67). Storage module 130, of user station 28 includes a music storage medium that stores each music recording that the customer selects for downloading (col. 11, lines 16-27 and col. 12, lines 58 to col. 13, line 26).

Art Unit: 2153

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-2 and 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al USPN (6647417).

As per claim 1, Hunter et al teach a contents distribution system (distribution system 10, fig.1) comprising a requesting device (user station 28, fig. 1) for making a request for distribution of contents, and a providing device (central controller 36, fig. 1) for providing the contents in accordance with said request from said requesting device (fig. 1 and abstract), characterized in that;

said requesting device (user station 28, fig. 11) reads conditional information (pre-selected music) from the recording

Art Unit: 2153

medium (storage module 130, fig. 11, col. 8, lines 52-65 and col. 10, lines 25-39) storing said conditional information for choosing the contents [col.11, lines 16-24 and col. 12, lines 60 to col. 13, line 2]; and

said read conditional information is sent directly or indirectly to said providing device [preselected user preference information and customer order information are stored in providing device 36 col. 6, lines 7-12; col. 11, lines 16-27 and col. 12, lines 60 to col. 13, line 14]; and

said providing device (central controller 36, fig. 1) chooses and specifies the contents in accordance with said sent conditional information to prepare acquisition information for acquiring said specified contents [user content selections and preferences (preselected music selections) are analyzed by provider device 36 to be downloaded to the user station 28 col. 6, lines 7-12 and col. 12, lines 36 to col. 13, line 23];

said prepared acquisition information is sent directly or indirectly to said requesting device [col. 8, lines 1-25 and col. 11, lines 16-27];

said requesting device stores said sent acquisition information in said recording medium [col. 8, lines 1-25; col. 8, lines 52-59 and col. 12, lines 60 to col. 13, line 14].

Art Unit: 2153

As per claim 2, Hunter et al teach the contents distribution system according to claim 1, characterized in that if said requesting device makes a request according to said acquisition information stored in said recording medium, said specified contents are downloaded from said providing device to said requesting device [col. 8, lines 1-59 and col. 12, lines 36 to col. 13, line 8].

As per claim 8, Hunter et al teach the contents distribution system according to claim 1, characterized in that said acquisition information is information containing at least location information indicating a location at which said specified contents are stored [col. 3, lines 66 to col. 4, lines 15 and col. 18, lines 14-51].

As per claim 9, Hunter et al teach the contents distribution system according to claims 1, characterized in that when the same conditional information is sent multiple times from said requesting device, said providing device selects and specifies only the contents different from the previously specified contents [col. 13, lines 4-38].

### Conclusion

1. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Bargadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

Art Unit: 2153

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Yasin Barqadle

Art Unit 2153



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